



FISCAL MEMORANDUM

HB 239 - SB 1440

February 28, 2023

SUMMARY OF BILL AS AMENDED (004721): Defines the term “sex” for use in the Tennessee Code, unless the context otherwise requires, as a person's immutable biological sex as determined by anatomy and genetics existing at the time of birth and evidence of a person's biological sex. Clarifies that “evidence of a person's biological sex” includes, but is not limited to, a government-issued identification document that accurately reflects a person's sex listed on the person's original birth certificate.

FISCAL IMPACT OF BILL AS AMENDED:

Other Fiscal Impact - The proposed language may result in increases to state and local expenditures associated with compliance measures, potential civil litigation and could jeopardize federal funding; however, due to multiple unknown factors, a precise fiscal impact cannot be determined.

Assumptions for the bill as amended:

- Defining the term for the overall use in Tennessee Code could result in impacts to multiple state departments where the term was not previously defined.
- According to the Department of Education (DOE) the new definitions would affect approximately 20 parts of code applicable to but not limited to DOE curriculum, general administration of schools, athletic participation, and local school board policies.
- The DOE states that the provisions of the legislation could create legal risk and jeopardize federal funding awards from programs such Title 1, Perkin, IDEA and other awards of an estimated \$1,293,583,239 in FY23-24.
- According to the Department of Health (DOH), Title X; Women, Infants, and Children; and various other federal grants specify an alternate definition of “sex”.
- DOH receives over \$750,000,000 in federal grant funding; this funding may be withheld if the state is found out of compliance with federal requirements.
- Federal funding for state and local government, including but not limited to DOE and DOH, may be jeopardized; however, the precise amount, if any, and the timing of such funds being withheld cannot be reasonably determined.
- Any increase in state litigation expenditures is dependent on multiple unknown factors and cannot be reasonably determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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